

Peace Agreement (CPA), imperiling the prospects for scheduled multiparty elections in 2009."

I could not agree more. Accountability is imperative. The CPA is not up for re-negotiation. But the burden for action, the weight of leadership, now rests with this president and this president alone.

I have consistently received reports from people on the ground that this administration's posture toward Sudan has only emboldened Bashir and the NCP.

The December 12 Wall Street Journal editorial page put it this way, "As a candidate, Mr. Obama stood with the human rights champions of Darfur and pledged tougher sanctions and a possible no-fly zone if a Sudanese regime infamous for genocide didn't shape up. His tone has changed in office . . . the preference for diplomacy over pressure has encouraged the hard men in Khartoum to stoke the flames in Darfur, ignoring an arms embargo and challenging the U.N.-African Union peacekeeping force there."

Khartoum is savvy in the ways of Washington. This softening in the U.S. posture has not gone unnoticed.

In recent written testimony before the House Foreign Affairs Subcommittee on Africa, the top UN investigator said, "In contrast to that leadership of 2004 and 2005, the United States appears to have now joined the group of influential states who sit by quietly and do nothing to ensure that sanctions protect Darfurians."

This administration's engagement with Sudan to date has failed to recognize the true nature of Bashir and the NCP.

Having been to Sudan five times, I've seen the work of their hands with my own eyes. In June 2004 I was part of the first congressional delegation with Senator SAM BROWNBACK to Darfur, soon after the world began hearing about the atrocities being committed against the people of that region. I witnessed the nightmare. I saw the scorched villages and overflowing camps. I heard the stories of murder, rape and displacement. In the summer of 2004, the Congress spoke with one voice in calling what was happening in Darfur genocide.

In addition to the massive human rights abuses perpetrated by the Sudanese government against its own people, it is also important to note that Sudan remains on the State Department's list of state sponsors of terrorism. It is well known that the same people currently in control in Khartoum gave safe haven to Osama bin Laden in the early 1990's. I was troubled by Special Envoy Graton's comments this summer at the Senate Foreign Relations Committee hearing that "there is no evidence in our intelligence community that supports [Sudan] being on the state sponsors of terrorism list . . ." despite the findings of the 2008 State Department Country Reports on Terrorism that ". . . there have been open source reports that arms were purchased in Sudan's black market and allegedly smuggled northward to Hamas."

Last week marked the anniversary of the adoption of the 1948 Genocide Convention. In the aftermath of the Nazi-perpetrated Holocaust the world pledged "Never Again." But these words ring hollow for the woman in the camp in Darfur who has been brutally raped by government-backed janjaweed so that they might, in their own words, make lighter

skinned babies. Were these horrors taking place in Europe would the world stand by and watch?

The U.S. Holocaust Memorial Museum, which sits just blocks from here, bears witness to genocide and related crimes against humanity around the world. The museum's warning for Sudan stems from "(t)he Sudanese government's established capacity and willingness to commit genocide and related crimes against humanity. This is evidenced by actions the government has taken in the western region of Darfur, the Nuba Mountains, and the South that include:

- Use of mass starvation and mass forcible displacement as a weapon of destruction;
- Pattern of obstructing humanitarian aid;
- Harassment of internally displaced persons;
- Bombing of hospitals, clinics, schools, and other civilian sites;

- Use of rape as a weapon against targeted groups;

- Employing a divide-to-destroy strategy of pitting ethnic groups against each other, with enormous loss of civilian life;

- Training and supporting ethnic militias who commit atrocities;

- Destroying indigenous cultures;

- Enslavement of women and children by government-support militias;

- Impeding and failing to fully implement peace agreements.

These are hardly our partners in peace. And yet, we cannot claim that Khartoum has been unpredictable, that we did not know what they were capable of. Tragically, they have been utterly consistent for nearly 20 years. They have consistently brutalized their own people. They have consistently failed to live up to agreements. And they have consistently responded only to strength and pressure.

And so I say once again, time is running out. The urgency of the situation calls for intervention at the highest levels of the U.S. Government—specifically the Secretary of State and the President of the United States. The people of Sudan cry out for nothing less.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 2009

Mrs. MALONEY. Madam Speaker, on December 14, 2009 I missed rollcall votes Nos. 969 and 970.

Had I been present, I would have voted "yea" on rollcall vote No. 969, recognizing and supporting the goals and ideals of National Runaway Prevention Month and, No. 970, commending the Real Salt Lake Soccer Club for winning the 2009 Major League Soccer Cup.

WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

SPEECH OF

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 2009

The House in Committee of the Whole House on the State of the Union had under

consideration the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes:

Mr. CONYERS. Madam Chair, as the Chairman of the Judiciary Committee, I would like to highlight some of the contributions made by our Committee to this important legislation. The Committee considered over the course of several months a range of legal issues posed by this legislation, and held two days of hearings this fall on its bankruptcy and antitrust law ramifications—on October 22 in the Subcommittee on Commercial and Administrative Law, and on November 17 in the Subcommittee on Courts and Competition Policy. Below is a summary of some of the more significant provisions added to the legislation, or revised in it, at the request of the Committee.

BANKRUPTCY LAW

The bill's new emergency procedures for dealing with financial institutions posing imminent toxic danger to our Nation's financial system is an exemption from the bankruptcy laws in favor of a receivership managed by the Federal Deposit Insurance Corporation (FDIC). While appreciative of the need for the government to be able to act with dispatch when the stability of the entire financial system is in jeopardy, and while respectful of the considered judgment of the Treasury Department, the FDIC, and the Financial Services Committee to devise an approach outside the Bankruptcy Code for this purpose, the Judiciary Committee believes it is important to remain mindful of fundamental due process and equitable considerations that are embodied in bankruptcy procedure. The Committee has accordingly limited the availability and extent of this bankruptcy exemption.

First, because this departure from well-established bankruptcy procedures and protections is justified only in the exigencies of an extraordinary emergency threatening stability of the financial system, the Judiciary Committee added a new "purpose" section to the emergency dissolution title to mandate that there be a "strong presumption that resolution under the bankruptcy laws will remain the primary method of resolving financial companies, and the authorities contained in this subtitle will only be used in the most exigent circumstances." The Treasury Secretary is required to explain any determination that such an extraordinary emergency exists, to the House and Senate Judiciary Committees, along with other committees.

Our Committee also added provisions ensuring that bankruptcy remains available as the preferred option. There are new provisions authorizing the FDIC, at any time, with the approval of the Treasury Secretary and after consultation with the Financial Services Oversight Council, to convert an emergency receivership into a case under either chapter 7 or chapter 11 of the Bankruptcy Code, while clarifying that doing so will not affect any of the FDIC's powers with regard to any bridge financial company created under the receivership. Upon its appointment, and periodically during the receivership, the FDIC will be required to report to the House and Senate Judiciary Committees, as well as to other committees, why a receivership is necessary rather than using bankruptcy, and the consequences for the rights of other creditors.

The Committee also added amendments to the Bankruptcy Code to clarify how a case brought by the FDIC proceeds, including authority for the FDIC to serve as trustee, with accommodations to certain trustee obligations in order to make it feasible for the FDIC to serve.

The Committee also adapted a number of key protections from the Bankruptcy Code into the FDIC's new dissolution procedure. These protections include:

Priority protection for unpaid wages and benefit plan contributions for employees of the financial company, who do not have the same recourse against their employer as business creditors have against the company.

Protection of collective bargaining agreements from repudiation by the FDIC, unless the FDIC determines repudiation is necessary for the orderly dissolution of the financial company, taking into consideration the cost to taxpayers and financial stability of the U.S.

Appointment of a consumer privacy advisor to protect the privacy of consumers whose personal information is in the possession of the financial company.

The Committee also directed the Government Accountability Office to undertake two studies and reports:

The first is a report in the event a financial company is taken into emergency receivership and assets are removed by the FDIC, on the extent to which claims against the company for violations of the Truth in Lending Act have been satisfied.

The other is a report on the "safe harbor" provisions for derivatives, swaps, and securities under federal law, that excludes them from bankruptcy and receivership proceedings, on how they have affected the ability of businesses to reorganize.

ANTITRUST LAW

One major impetus of this legislation is to address the problem faced last year by financial institutions that were deemed "too big to fail." The emergency efforts to deal with those institutions led to infusions of billions of federal dollars, and federal guarantees of billions more, putting the Treasury at significant risk.

But "too big to fail" has another aspect that places our nation at significant risk—and that is the potential danger to competition when the marketplace becomes concentrated in the hands of so few competitors that consumers no longer have meaningful choice, and the healthy influence of competition on price, quality, and innovation are lost.

It is important to the Judiciary Committee, as the Committee in charge of the laws protecting our economic freedoms against monopolization and other anticompetitive restraints of trade, that should our nation ever be faced with a similar financial system emergency in the future, that antitrust protections remain in place to ensure that our response does not leave us, when the dust clears, with an even more concentrated market, with companies that are even bigger, with more market power, and less responsive to the consumers they are supposed to serve.

Accordingly, the Committee revised the emergency FDIC dissolution procedures for financial institutions posing imminent toxic danger to the broader financial system, to ensure that any proposed sale of significant assets to a competitor that occurs after the initial urgency has passed would be subject to effective pre-merger antitrust review when war-

ranted, under the procedure developed for reviewing sales of assets during a bankruptcy proceeding. This procedure expedites the initial review, while permitting the antitrust enforcement agency to extend the period when more information is needed to make its assessment. The Committee also clarified that the federal antitrust enforcement agencies would retain their legal authority to challenge a merger or acquisition that would harm competition in violation of the antitrust laws.

These changes balance the need for expeditious transfer of assets from a failing financial company to a safe new home with the imperative of preserving our competitive free market system.

The Committee also revised provisions in the title of the bill dealing with regulation of over-the-counter derivatives markets. Provisions in the legislation as introduced sought to prohibit entities involved in the derivatives markets from engaging in or facilitating anticompetitive conduct. These entities included derivatives clearing organizations, swap dealers, major swap participants, swap execution facilities, clearing agencies, security-based swap dealers, and major security-based swap participants. There was language in these provisions that appeared to create exceptions, and that the Committee was concerned might potentially be read to create exemptions from the antitrust laws.

The Committee revised these provisions to make clear that no antitrust exemptions are intended. In two instances, in parts of the derivatives title amending the Securities Exchange Act, the provisions were removed entirely. In three instances, in parts of the derivatives title amending the Commodity Exchange Act, the exception language was removed to make clear that the prohibitions apply without exception, and to further clarify that the antitrust laws remain fully in effect with respect to any conduct involved.

PRACTICE OF LAW

The Constitutional freedoms and legal rights we enjoy as Americans are ultimately protected in our courts, through the advocacy of attorneys who are licensed to practice before them. In keeping with these critical responsibilities, the activities of these "officers of the court" are regulated by the States, through government bodies, generally overseen by the State's highest court, with specialized expertise in the duties imposed by the code of legal ethics.

Accordingly, the Judiciary Committee revised the Consumer Financial Protection Agency Act title to clarify that the new agency is not being given authority to regulate the practice of law, which is regulated by the State or States in which the attorney is licensed to practice. The Committee further clarified that this is not intended to preclude the new agency from regulating other conduct engaged in by individuals who happen to be attorneys or acting under their direction, as long as the conduct is not part of the practice of law or incidental to the practice of law.

OTHER CONTRIBUTIONS

Other contributions by the Judiciary Committee include revisions to the Consumer Financial Protection Agency's new investigative authority to bring it closer into conformity with the Antitrust Civil Process Act, on which it is modeled; clarifications to the new revised procedures for FTC rulemaking in the unfair and deceptive acts or practices area, to bring them

closer in line with the Administrative Procedure Act, as intended; clarifications to the FDIC's new rulemaking authority to ensure it is used in compliance with the Administrative Procedure Act; and revisions to the new authority for nationwide service of subpoenas by the Securities and Exchange Commission to ensure that the authority will be exercised consistent with due process.

A STRONG SON OF THE SOUTH IN
HONOR OF SPC CRAIG C. SMITH,
THE UNITED STATES ARMY

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 2009

Mr. ROGERS of Alabama. Madam Speaker, I rise today to honor a real American Hero, SPC Craig C. Smith of the 172nd Infantry Bgd 9th Eng from Montgomery County, Alabama. On April 5, 2009 in Iraq, after an IED blast, he almost lost his life . . . but did lose his leg. His battle to overcome his next victory is a lesson to us all. A lesson about faith and courage, and rebuilding his life. Along the way his mother, Rosanna Smith, like so many other mothers and parents have helped their sons and daughters with their unending support. I ask that this poem penned by Albert Caswell of the Capitol Guide Service be placed in the RECORD to honor him.

A STRONG SON OF THE SOUTH

On battlefields of honor bright . . .
There are but those who must win that
fight . . .
Who must march so bravely off to war . . .
To bare the burden, and all of that heartache
endure . . .
Armed but with only their most courageous
hearts, they soar . . .
While, there in the face of dark evil and
death . . .
As they so boldly fight with all that they so
have left!
From where does such strength and courage
so come?
And how do you raise such a magnificent
Southern Son?
A Strong Son of the South, this fine one!
From but a family of love . . .
And a fine Mother, who but holds her son so
very high above . . .
Sweet Home Alabama, this one she loves!
And in times of war . . .
There are new battles, that these fine heroes
and families must now endure . . .
When, in the midst of hell . . . as close to
death, your fine heart so swells . . .
As you lose your fine strong leg, will you win
this new battle?
As it's for him we pray!
For only armed with hearts of courage
full . . .
Will over evil, and heartache so rule!
For you Craig, were once the one . . .
Who like a deer, could so run . . .
Jump so high with all of your speed . . .
A sheer Tour De force, but for his country he
would bleed!
You're A Bama!
That can't be stopped!
With your heart of a hero, Craig you'll climb
this mountain . . . but to the top!
For you got a life to live, and so much to our
world to give . . .
For our Lord God put's men like you upon
this earth . . .
Fine men like you, in all your worth . . .
To Teach Us, To Reach Us, To All of Our
Hearts, To So Beseech Us!